

HOUSE BILL REPORT

SHB 1236

As Amended by the Senate

Title: An act relating to failing to summon assistance.

Brief Description: Changing duties for aiding injured persons.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Morrell, Miloscia, Lovick, Darneille and Lantz).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/1/05, 2/10/05 [DPS].

Floor Activity:

Passed House: 3/14/05, 97-0.

Senate Amended.

Passed Senate: 4/11/05, 42-7.

Brief Summary of Substitute Bill

- Makes it a misdemeanor offense for failing to summon assistance for a person that has suffered substantial bodily harm.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

Staff: Yvonne Walker (786-7841).

Background:

Under common law, a person generally has no duty to rescue another person in distress. An exception to this rule is when a special relationship exists between the parties and that relationship creates a duty to assist.

Some statutes in Washington have departed from common law in limited ways and have established an affirmative duty to assist another. One example is the duty to report suspected child abuse or neglect. Another is to report child pornography film that is presented for developing. A third is to summon aid for a peace officer when requested. A violation of any of these statutes carries criminal penalties.

Since 1968, four states have enacted duty-to-rescue statutes: Vermont, Minnesota, Rhode Island, and Massachusetts. The penalties are generally either a fine, a limited possible term of confinement (up to one year), or both. Duty to rescue statutes also exist in 13 European countries.

State statute protects a person from civil liability for damages resulting in acts or omissions while rendering aid (or being a Good Samaritan) to an injured person in an emergency provided the person is doing so without compensation and acts without gross negligence or wanton misconduct.

Summary of Substitute Bill:

A new crime of "failing to summon assistance" is created.

It is a misdemeanor offense to fail to summon assistance. Failing to summon assistance occurs when a person is present when the crime is committed against a victim, or was made aware that a crime was committed against a victim by someone who was present when the crime was committed against the victim, and:

- the person knows that the victim has suffered substantial bodily harm as a result of the crime committed and is in need of assistance;
- the person could reasonably summon assistance for the victim in need without danger to himself or herself and without interference with an important duty owed to a third party;
- the person fails to summon assistance for the victim in need; and
- another person is not summoning or has not summoned assistance for the person in need of such assistance.

The punishment for a misdemeanor offense is a maximum of 90 days in jail, a fine of \$1,000, or both.

EFFECT OF SENATE AMENDMENT(S):

The amendment removes the second hand knowledge language. Under the original bill, "failing to summon assistance" occurred when a person: 1.) is present when the crime is committed against a victim, or 2.) was made aware that a crime was committed against a victim by someone who was present when the crime was committed against the victim. The amendment strikes # 2. As a result, a person cannot be prosecuted for "failing to summon assistance" if such person was only made aware that a crime was committed against a victim by someone else who happen to be present when the crime actually occurred.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Three people have died as a result of no one calling for assistance for the victims. All three victims may have survived if emergency help had been called.

Rachel Burkheimer was murdered in 2002. She was beaten, hog-tied, and put in a garage for several hours. During that time, approximately 10 people went in and out of the garage and duplex and saw Rachel lying in the garage, but all refused to summon the police. The offenders later took Rachel out of the garage, drove her to another remote area, shot and killed her. The news about Rachel's disappearance was on the news for two weeks and not one person came forward with information about ever seeing her. This bill pertains to Rachel's situation, because it shows how some people do not have the moral capacity to call emergency help for a victim.

Michael Sherhoff was murdered nine years ago. He was pushed off a tressel and his body laid in the bottom of the Bothel slew for days. During that time, five people knew that he had been pushed in the slew, but not one person called for help. There is a moral responsibility that is not being addressed by our society.

Joey Levick was beaten and left to die in a ditch for nearly 16 hours. Joey was beaten so badly that he could not move himself out of that ditch. Joey's final minutes was him lying face down in a ditch of two inches of water. Out of all the people who knew about Joey, not one person tried to call for help.

Most people would not hesitate to call 9-1-1 if they knew someone was drowning or hurt. But there are other people who know about crimes that take place, but they choose loyalty to their criminal friends instead of calling for help for the victims. Many cases on the news would probably not end up as murder if citizens would know that it is against the law not to call 9-1-1.

This is the eighth year this bill has been brought to this Legislature and it is already a law in four states and 13 European countries. Washington has statutes that already require people to do some affirmative actions such as report to the police about certain acts. This bill will not fill up prisons. However, if it is felt that the bill is too broad, then it could be amended to focus on innocent victims that have suffered as a result of a crime.

This state needs a law to punish people who do not care enough to call 9-1-1 for a victim anonymously. In any of these cases, the victims would have probably lived if they had got the help they needed. There are just too many immoral people in society today. This state needs to hold people accountable when a person is in need of urgent help. It is common sense to help a dying person in need. How many more lives have to be lost.

Testimony Against: None.

Persons Testifying: Denise Webber; Anita Schuerhoff; Melva and Joe Levick; Dan Satterberg, King County Prosecuting Attorney's Office; and Nick Mirante.

Persons Signed In To Testify But Not Testifying: None.